Registrar of Voters
APR 02 2026
Imperial County

VIA PERSONAL DELIVERY

April 2, 2026

Mrs. Linsey Dale
Imperial County Registrar of Voters
940 W. Main Street, Suite 206
El Centro, CA 92243

RE: Request for Preparation of Ballot Title and Summary for Proposed Initiative for Imperial County Data Center Prohibition Act

Dear Mrs. Dale:

Pursuant to Section 9103 of the California Elections Code, we, the undersigned proponents, hereby request that the County Counsel prepare the Official Ballot Title and Summary for the proposed initiative measure referenced above and attached to this request.

Included with this submission are the Proponent Statements of Acknowledgment signed by each proponent of this measure as required by Section 9608 of the Elections Code.

Please direct all correspondence regarding this initiative to:

Phone 619 · 820 · 9938
jaketison@cox.net
JAMES H TISON
1036 S 18th St
El Centro CA
92243

Sincerely,

Kristian Salgado

James H Tison

NOTICE OF INTENTION TO CIRCULATE INITIATIVE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of Imperial for the purpose of enacting the Imperial County Data Center Prohibition Act, a proposed ordinance amending the Imperial County General Plan Land Use Element and Zoning Ordinance to prohibit large-scale data centers in the unincorporated territory of Imperial County, and establishing related enforcement provisions including civil remedies and criminal penalties.

A statement of the reasons for the proposed action as contemplated in the petition is as follows:

Imperial County's water comes from the Colorado River. It is already stretched thin by drought, climate change, and competing demands. Every drop sustains our farms, our families, and the Salton Sea.

Large-scale data centers consume hundreds of thousands of gallons of water a day for cooling. These are the facilities that power artificial intelligence, the cloud, and cryptocurrency mining for customers who will never set foot in Imperial County. In a desert that regularly tops 100 degrees for more than three months a year, that demand is enormous. Water that goes to a data center does not go to a farm or a family. And as the Salton Sea loses its inflow, the dry lakebed releases toxic dust that is already measurably damaging children's lungs in communities like Niland, Bombay Beach, Salton City, Desert Shores, Westmorland, and Calipatria. Data centers will worsen this vicious cycle.

Our air is already in crisis. Imperial County is one of only three regions in California that fails federal air quality standards for particulate matter. Children here are hospitalized for asthma at double the state average. This isn't normal, and it isn't right. Data centers bring large diesel backup generators that are tested monthly and run during outages, adding more pollution to an air basin that already cannot meet the law.

Data centers do not belong next to our homes, schools, or parks. They run around the clock. They are loud. They bring heavy truck traffic. They lower property values. Imperial County's communities were not built for industrial neighbors of this scale.

Our power grid, run by the Imperial Irrigation District, was not built for facilities that draw this much electricity continuously. We ratepayers should not bear those costs and risks.

We support responsible economic development that creates lasting, good jobs and respects our community. This is not anti-development. It is about what belongs here, and data centers do not.

Our industrial zoning allows data centers, but that category was written for a different era. A server room in a warehouse and a multi-acre AI campus drawing as much water as a small city are not the same thing, and our current code has no way to tell them apart. There is no size threshold and no real process to weigh what a facility of this scale actually costs the people who live here.

We are asking voters to decide once and for all whether data centers belong in Imperial County. That is what the initiative process is for.

Proponents *(Sections 9103(a), 9104 of the Elections Code)*

NAME	ADDRESS	SIGNATURE
Kristian Salgado	1049 Playa Del Norte Calexico, Ca 92231	Kristian Salgado
Francisco Leal	250 Taylor. Dr Imperial, CA 92251	
Christopher Scurries	244 Samantha Ct. Imperial, CA 92251	
James Hadley Tison	1036 S. 18th St El Centro CA 92243	
Jacob Nicholas Rodriguez	866 Danenberg Dr El Centro, CA 92243	

The original notice and proof of publication will be filed with the Imperial County Registrar of Voters, 940 W. Main Street, Suite 206, El Centro, CA 92243.

AN ORDINANCE OF THE PEOPLE OF IMPERIAL COUNTY

AMENDING THE IMPERIAL COUNTY GENERAL PLAN LAND USE ELEMENT AND ZONING ORDINANCE TO PROHIBIT DATA CENTERS IN THE UNINCORPORATED TERRITORY OF IMPERIAL COUNTY; ESTABLISHING MISDEMEANOR PENALTIES AND PROHIBITING UNLAWFUL EXPENDITURE OF COUNTY RESOURCES; ESTABLISHING OFFICIAL BOND LIABILITY FOR NONFEASANCE; ESTABLISHING A SUPPLEMENTAL CONFLICT OF INTEREST AND PAID REPRESENTATIVE DISCLOSURE POLICY; AND CREATING A PRIVATE RIGHT OF ACTION FOR ELECTORS

("THE IMPERIAL COUNTY DATA CENTER PROHIBITION ACT")

The People of Imperial County do ordain as follows:

SECTION 1: Title

This Ordinance shall be known and may be cited as the 'Imperial County Data Center Prohibition Act' (the 'Act' or 'Ordinance').

SECTION 2: Findings and Purpose

The People of Imperial County find and declare as follows:

A. AUTHORITY.

The County of Imperial holds all rights and powers established by California law to regulate land uses in unincorporated territory to protect the public health, safety, and welfare. (Cal. Const. Art. XI, Section 7.) The initiative power reserved to the People under Article II, Section 8 of the California Constitution extends fully to local general plan and zoning amendments. (City of Morgan Hill v. Bushey (2018).) All provisions of this Ordinance share the common purpose of prohibiting data centers in unincorporated Imperial County and ensuring that prohibition is faithfully and comprehensively enforced, satisfying the 'reasonably germane' standard applicable to initiative measures. (Senate of the State of California v. Jones (1999) 21 Cal.4th 1142.)

B. GENERAL PLAN AMENDMENT AUTHORITY AND NOTICE TO VOTERS.

The Imperial County General Plan Land Use Element was adopted and has been amended by the Board of Supervisors (last revised October 6, 2015, Board Minute Order #18b). The People, exercising their reserved initiative power, hereby expressly amend the General Plan Land Use Element. This Ordinance is a General Plan amendment, and voters are expressly notified that amendment of the General Plan is a primary purpose of this Ordinance, as required by Lesher Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531. A voter-approved General Plan amendment has the same legal

effect as a Board-adopted amendment. Upon adoption, the amendment is protected from repeal or modification by the Board of Supervisors without voter approval pursuant to Elections Code Section 9125 and Section 8 of this Ordinance. (DeVita v. County of Napa (1995) 9 Cal.4th 763.)

C. WATER SCARCITY AND SALTON SEA DEPENDENCY.

Imperial County is an arid desert region receiving fewer than three inches of annual rainfall. The County's water supply depends almost entirely on Colorado River allocations administered through the Imperial Irrigation District (IID) under the Quantification Settlement Agreement (QSA) and any successor agreements. These allocations are finite and subject to ongoing reductions due to long-term drought, climate change, and competing demands under the Law of the River. Large-scale data centers can consume between one and five million gallons of water per day for cooling systems, depending on size and technology. In Imperial County, which experiences more than 110 days per year above 100 degrees Fahrenheit, with average July highs reaching 107 degrees Fahrenheit, making it the hottest county in California, cooling water demand is substantially greater than figures published from temperate-climate installations. This consumption directly threatens the agricultural water allocations that support the County's farming economy, which generates over two billion dollars annually in agricultural production and supports the region's primary employment base. Approximately 85 percent of the Salton Sea's inflows historically came from IID agricultural return flows. Since the 2003 QSA reduced agricultural water deliveries to the Imperial Valley, the Salton Sea has lost more than a third of its surface area, exposing nearly 20,000 acres of lakebed playa contaminated with decades of pesticide and agricultural runoff. Large-scale data center water consumption directly competes with and reduces the agricultural return flows that are the Salton Sea's primary lifeline, accelerating playa exposure and worsening the region's most severe ongoing public health crisis.

D. AGRICULTURAL ECONOMY.

Imperial County is one of California's most productive agricultural regions. Prime farmland and agricultural water resources are irreplaceable. Large-scale data center facilities require industrial infrastructure, including continuous high-voltage power, cooling water supply and discharge, diesel backup generation, and industrial site preparation, that is incompatible with adjacent agricultural operations. Conversion of agricultural land or diversion of agricultural water to support data center development causes permanent harm to the County's agricultural economy that cannot be adequately mitigated.

E. POWER GRID.

Unincorporated areas of Imperial County are served primarily by the Imperial Irrigation District (IID), a local public agency with constrained transmission capacity and limited interconnection with the broader California grid. Large-scale data centers operate continuously at peak electrical loads, typically 30 to 60 megawatts or more, and require

substantial diesel backup generation for operational continuity. New large-load interconnections would impose significant capital costs and reliability risks on IID's system, affecting electricity rates and reliability for all residential, agricultural, and commercial ratepayers in the district.

F. PUBLIC HEALTH: EXISTING ENVIRONMENTAL BURDEN.

Imperial County bears one of the most severe pollution burdens of any jurisdiction in California. The County is a federal non-attainment area under the Clean Air Act for particulate matter, one of only three regions in California with that designation, alongside the San Joaquin Valley and the South Coast Air Basin that includes Los Angeles County. The state standard for PM10 was exceeded at the Niland monitoring station on 100 days in 2012, 145 days in 2013, and 124 days in 2014, with concentrations reaching ten times the federal limit. Pediatric asthma-related emergency room visits and hospitalizations in Imperial County were, as of 2019, double the California state average, the highest rate in the state. Approximately 20 percent of children in Imperial County are diagnosed with asthma, compared to a national average of approximately 13.7 percent. Over 85 percent of residents identify as Hispanic or Latino, and one in three children lives in poverty. CalEnviroScreen 4.0, a publication of the State of California’s Office of Environmental Health Hazard Assessment, consistently ranks nearly all census tracts in Imperial County among the top 20 percent of census tracts most vulnerable to pollution in the state. The People find that Imperial County's communities cannot absorb additional industrial pollution burden without serious harm to public health.

G. PUBLIC HEALTH: THE SALTON SEA CRISIS AND RECEDING LAKEBED DUST.

The Salton Sea is rapidly receding due to reduced agricultural return flows following the 2003 QSA. Between 2003 and 2016, exposed playa around the Salton Sea increased from approximately 862 acres to over 16,452 acres, and estimates now approach 20,000 acres. Without restoration, total annual inflows are projected to fall to approximately 700,000 to 800,000 acre-feet, a reduction of 30 to 40 percent from pre-QSA levels, eventually exposing up to 100,000 acres of playa. The exposed playa is contaminated with pesticide residues, heavy metals including selenium and arsenic, organochlorine compounds, and other agricultural pollutants. A 2025 peer-reviewed study by the University of California, Irvine, funded by the National Institute of Environmental Health Sciences, measured lung function in nearly 500 children and found a clear, statistically significant association: children living near the Salton Sea experienced measurably worse lung function due to dust event exposure. A companion University of Southern California study found that 24 percent of children in the area have asthma, far above the national rate. Data centers drawing millions of gallons per day from the same Colorado River system compete directly with the agricultural return flows that are the Salton Sea's primary lifeline, accelerating playa exposure and the measurable lung damage it causes.

H. PUBLIC HEALTH: GENERATORS COMPOUNDING IN A NON-ATTAINMENT AREA.

Large-scale data centers require multiple onsite diesel or natural gas backup generators, typically ranging from 1.5 to more than 3 megawatts each, to maintain continuous operation. These generators are tested monthly and operated during emergencies, emitting significant quantities of fine particulate matter (PM2.5), nitrogen oxides (NOx), sulfur dioxide (SO2), and other criteria air pollutants and toxic air contaminants. A single 2.5-megawatt diesel generator emits over 5 metric tons of nitrogen oxides and 0.3 metric tons of PM10 during 100 hours of annual operation. Diesel generators emit 200 to 600 times more NOx per unit of electricity produced than natural gas-fired power plants. These emissions, introduced into an air basin already in federal non-attainment for PM10 with documented PM10 concentrations reaching ten times the federal limit at local monitoring stations, compound an already-exceeded pollution load on communities with double-state-average pediatric asthma rates. Introducing industrial-scale diesel generator operations into Imperial County is not an incremental impact. It is the introduction of a concentrated new pollution source into one of the most pollution-burdened, federally non-compliant air basins in California, for a population that is already being measurably harmed by air quality that exceeds legal limits.

I. REGULATORY GAP.

Data centers are a permitted industrial use in the County's M-1 (Light Industrial) and M-2 (Medium-Heavy Industrial) zones under the existing Zoning Ordinance (Title 9, Land Use Ordinance). That industrial use category, however, was written for a different era of computing infrastructure. It contains no definition of data centers, no size thresholds, no water consumption review, no power draw analysis, and no process to evaluate the specific and substantial impacts that large-scale, continuously-operating data center campuses impose on communities. The same industrial designation that applies to a server room in a warehouse applies to a 75-acre AI training campus drawing tens of millions of gallons of water per year. The absence of any distinction between these uses, and the absence of any review mechanism scaled to the actual impacts of modern hyperscale facilities, constitutes a regulatory gap that existing entitlement processes cannot adequately address.

J. SPECULATIVE DEVELOPMENT PRESSURE.

As coastal California regions face data center saturation, developers are actively identifying inland desert counties, including Imperial County, as alternative siting locations because of available large-lot industrial land, proximity to high-voltage transmission infrastructure, and less-developed regulatory environments. Without clear prohibition, the unincorporated territory of Imperial County faces imminent speculative development that would be difficult to reverse once physical construction begins.

K. REFERENDUM AS SOLE RECOURSE AND THE NECESSITY OF DISCLOSURE.

Upon adoption of this Ordinance, the Board of Supervisors and all County Officers and Employees are divested of any discretionary or ministerial authority to approve, permit, or authorize a Data Center in the unincorporated territory of Imperial County. No administrative, legislative, quasi-judicial, or other county action of any kind may lawfully result in the approval of a Data Center. The sole lawful path by which a Data Center could ever be authorized in unincorporated Imperial County after the effective date of this Ordinance is a majority vote of the electorate to repeal or amend this Ordinance. Because repeal or amendment by voter referendum is the only remaining avenue available to any person seeking to authorize a Data Center, any effort to influence County Officers, the Board of Supervisors, or county staff toward placing a repeal or amendment measure on the ballot, weakening enforcement of this Ordinance, declining to enforce its penalties, or otherwise circumventing its terms constitutes, in practical effect, an attempt to influence the conditions and outcome of a future election of the People of Imperial County. The People therefore find that robust conflict of interest, disclosure, and paid representative transparency requirements are necessary and appropriate safeguards under this Ordinance not only to protect the integrity of the administrative process but to protect the integrity of the democratic process itself, which is the only lawful path to any change in the prohibition enacted herein. The provisions of Section 13 are enacted with this finding as their primary legal foundation.

L. OFFICIAL ACCOUNTABILITY.

The People find that the integrity of this Ordinance depends on full and faithful compliance by every officer and employee of the County to whom its duties are assigned. Accordingly, the People find that the establishment of personal criminal liability, official bond liability, supplemental conflict of interest obligations, paid representative disclosure requirements, and a private right of action for electors to enforce this Ordinance are necessary and proper exercises of the People's initiative power to protect the democratic mandate expressed by this Ordinance and to prevent regulatory capture of the land use permitting process.

M. THIS ORDINANCE IS NOT DIRECTED AT ANY SPECIFIC PERSON OR PARCEL.

The People find that this Ordinance is a general and neutral regulation of land use applicable to all unincorporated territory of Imperial County. It is not directed at any particular property owner, developer, applicant, or pending project.

N. CUMULATIVE DATA CENTER DEVELOPMENT PRESSURE.

The People find that Imperial County is currently subject to concurrent large-scale data center development proposals that, even if each might claim individually acceptable impacts, collectively threaten to overwhelm the County's water resources, power grid, agricultural economy, and community health. The cumulative effects of multiple large-scale data centers operating simultaneously must be evaluated and regulated as a whole, not project-by-project in isolation.

O. CUMULATIVE WATER IMPACTS.

The People find that the combined water consumption of the data center proposals currently known to be under consideration for or adjacent to unincorporated Imperial County, even at first-phase operations alone, would impose a burden on Imperial County's Colorado River water allocations that the existing agricultural and residential water users cannot absorb without substantial harm to the farming economy and quality of life.

P. CUMULATIVE POWER GRID IMPACTS.

The People find that the combined peak electrical load of the data center proposals known as of the date of this Ordinance would require transmission infrastructure upgrades, power purchase agreements, and reserve capacity commitments that collectively threaten the reliability and affordability of electrical service for all IID ratepayers.

Q. VOTER APPROVAL REQUIRED FOR FUTURE AMENDMENTS.

The People find that the prohibition enacted by this Ordinance is of such fundamental importance to the public health, water security, agricultural economy, and environmental justice of Imperial County that it should not be reversible or amendable by the Board of Supervisors acting alone. Any amendment, repeal, exceptions to, or weakening of this Ordinance requires a vote of the People.

SECTION 3: Definitions

As used in this Ordinance, the following terms have the meanings set forth in this Section:

A. 'Data Center'

means any building, structure, group of structures, or dedicated space within a building that is used primarily to house networked computer systems for the storage, processing, transmission, or distribution of data for off-site or on-site users, whether operated for commercial colocation, cloud computing services, artificial intelligence model training or inference computation, machine learning infrastructure, cryptocurrency mining, content delivery networks, or any functionally equivalent purpose. Associated infrastructure, including cooling systems, power systems, uninterruptible power supplies, backup diesel or gas generators, battery storage systems, utility substations, switchgear, and security systems, constructed or operated primarily to support such computer systems is included in this definition. A facility is a 'Data Center' subject to this Ordinance if it meets any one or more of the following thresholds:

(1) Located on one or more contiguous acres of land under unified ownership or control as part of the same project or development, whether developed in a single phase or multiple phases;

(2) Designed to operate or actually operating at a peak power draw of five (5) megawatts or greater; or

(3) Containing 10,000 or more square feet of dedicated computer equipment space.

B. 'Accessory Data Processing Facility'

means a room, closet, or equipment space containing computer or networking equipment that meets all of the following criteria: (1) Is entirely contained within an existing building that was not principally designed or constructed for data center use; (2) Operates at less than five (5) megawatts peak power draw; (3) Serves only the internal operational computing needs of the primary occupant of that building; and (4) Is not marketed, leased, licensed, or used for commercial colocation, cloud hosting, or data processing services to parties other than the primary occupant. Accessory Data Processing Facilities are expressly excluded from the definition of 'Data Center' for purposes of this Ordinance.

C. 'Land Use Entitlement'

means any permit, approval, license, certificate, development agreement, conditional use permit, variance, zoning amendment, general plan amendment, specific plan, subdivision map, tentative map, final map, building permit, grading permit, encroachment permit, certificate of occupancy, or other discretionary or ministerial approval issued by or on behalf of the County that is required for or that materially facilitates the construction, installation, operation, or expansion of a Data Center.

D. 'Data Center Application'

means any application for a Land Use Entitlement that the applicant has certified, or that a County Officer or Employee knows or reasonably should know, involves a proposed use that meets any threshold in Section 3(A). Upon submission of any application for a Land Use Entitlement, the applicant shall complete and sign, under penalty of perjury, a Data Center Self-Certification Form, in a form to be drafted by the County Counsel, attesting whether the proposed project meets or may meet any threshold in Section 3(A). The County shall not process any application for a Land Use Entitlement for which the applicant has failed to complete the required Self-Certification Form. Submission of a materially false or misleading Self-Certification Form is a misdemeanor punishable pursuant to Government Code Section 25132(a) and Penal Code Section 19. The obligation to complete the Self-Certification Form and the obligation not to submit a false form attach to the applicant regardless of whether the County has yet reviewed the application. The Board of Supervisors is directed to adopt a form of the Data Center Self-Certification Form within sixty (60) days of the effective date of this Ordinance. The form shall ask, at minimum: (a) whether the proposed project involves any use described

in Section 3(A); (b) whether the project meets any of the three thresholds in Section 3(A)(1) through (3); and (c) the applicant's certification under penalty of perjury that the answers are true and correct to the best of the applicant's knowledge.

E. 'Pending Application'

means any application for a Land Use Entitlement for a Data Center that has been received by the County but that has not been finally approved with all applicable appeal and review periods fully exhausted as of the effective date of this Ordinance.

F. 'County Officer or Employee'

means: any member of the Board of Supervisors; any elected county officer; any appointed department director, department head, manager, or supervisor; any planner, building official, permit technician, zoning administrator, engineer, attorney, or other staff member employed by any county department, office, or agency; any member of the Planning Commission, Board of Zoning Appeals, or any other board, commission, or hearing body exercising land use authority; and any deputy, assistant, agent, or contractor acting on behalf of any of the foregoing in performing county land use functions. The term includes persons serving in acting or interim capacities.

G. 'County Resources'

means any expenditure of county funds; any expenditure of the compensated time of any County Officer or Employee; and the use of any county equipment, facilities, systems, or other county property.

H. 'Data Center Developer'

means any person, entity, partnership, limited liability company, corporation, trust, or agent that proposes, applies for, finances, designs, constructs, operates, or manages a Data Center, or that advocates on behalf of any of the foregoing before any county body or officer, or that has a direct financial interest in any Data Center proposed for unincorporated Imperial County.

I. 'Elector'

means any person who is registered to vote in Imperial County.

J. 'General Plan Land Use Element' or 'Land Use Element'

means the Land Use Element of the Imperial County General Plan, as adopted by the Board of Supervisors on November 9, 1993 (MO#18), last revised on October 6, 2015 (MO#18b), and as further amended by this Ordinance.

K. 'Paid Representative'

means any attorney, consultant, lobbyist, public affairs professional, land use agent, permit expediter, government relations representative, or other person who: (1) is compensated, directly or indirectly, by money, goods, services, or other thing of value; and (2) appears before, communicates with, or contacts any County Officer or Employee in connection with any matter relating to a Data Center or to this Ordinance, including without limitation any proceeding involving a Data Center Application, any proceeding relating to the enforcement, interpretation, amendment, or repeal of this Ordinance, and any Board of Supervisors proceeding regarding placement of a repeal or amendment measure on the ballot. A person is a 'Paid Representative' for purposes of this Ordinance regardless of whether they are required to register as a lobbyist under any other law. Attorneys appearing solely for purposes of judicial proceedings (as opposed to administrative or legislative proceedings before county bodies) are not Paid Representatives for purposes of this Ordinance.

SECTION 4: Amendment to the Imperial County General Plan Land Use Element

The People hereby expressly amend the Imperial County General Plan Land Use Element as set forth in this Section, effective upon the effective date of this Ordinance. This Section constitutes a voter-adopted General Plan amendment. Voters are expressly notified that amendment of the General Plan is a primary purpose of this Ordinance, as required by Lesher Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531. These amendments are protected from repeal or modification by the Board of Supervisors without voter approval pursuant to Elections Code Section 9125 and Section 8 of this Ordinance.

A. NEW SECTION IV.F: COUNTYWIDE PROHIBITED LAND USES: DATA CENTERS.

The following new section is hereby added to the Land Use Element as Section IV.F, inserted after the existing Section IV.E:

Section IV.F: Countywide Prohibited Land Uses: Data Centers (People's Initiative)

Notwithstanding any other provision of this Land Use Element (including but not limited to any land use designation, permitted use table, conditional use permission, Specific Plan provision, or Compatibility Matrix entry), the following land use is expressly prohibited in all land use designations applicable to the unincorporated territory of Imperial County:

Prohibited Use: Data Centers (as defined in Section 3(A) of the Imperial County Data Center Prohibition Act).

This prohibition applies in all of the following General Plan land use designations:

Urban Areas (UA): Data Centers are prohibited in all Urban Area designations, including areas surrounding the cities of Brawley, Calexico, Calipatria, El Centro, Holtville, Imperial, and Westmorland, and all unincorporated community urban areas including Heber, Niland, Seeley, Winterhaven, and West Shores/Salton City.

Rural Residential (RR): Data Centers are prohibited.

Agricultural (A): Data Centers are prohibited.

Commercial (C): Data Centers are prohibited.

Industrial, Light Industrial, and General Industrial (I/LI/GI): Data Centers are prohibited, notwithstanding any industrial use permission otherwise applicable and notwithstanding any entry in the Compatibility Matrix (Land Use Element Table 4). The Compatibility Matrix is hereby amended to designate 'Data Centers' as Prohibited in all land use designation columns.

Open Space and Conservation (OS/C): Data Centers are prohibited.

Public and Quasi-Public (PQP): Data Centers are prohibited.

All Specific Plan Areas (SPA): Data Centers are prohibited in all currently designated and future Specific Plan Areas, including without limitation the Gateway of the Americas, Mesquite Lake, Rio Bend, Imperial Lakes, McCabe Ranch, River Front, and Lithium Valley Specific Plan Areas. No Specific Plan adopted, amended, or approved after the effective date of this Ordinance may authorize or permit a Data Center.

This prohibition supersedes and controls over any conflicting provision of this Land Use Element, any existing or future Specific Plan, and any entry in the Compatibility Matrix (Table 4).

B. AMENDMENT TO GOALS AND OBJECTIVES.

Section III.B (Goals and Objectives) of the Land Use Element is hereby amended by adding the following new goal and implementing objective, to be inserted after the final existing goal: New Goal LU-DC: Protect Imperial County's finite water resources, prime agricultural land, power grid reliability, and community public health by prohibiting the establishment of large-scale data centers in the unincorporated territory of Imperial County. Implementing Objective LU-DC.1: No Land Use Entitlement shall be accepted, processed, or issued for a Data Center (as defined in the Imperial County Data Center Prohibition Act) in the unincorporated territory of Imperial County.

C. CONFORMING TECHNICAL AMENDMENTS.

The Board of Supervisors is directed to adopt conforming technical amendments to the Land Use Element, including updates to figures, tables, and the Compatibility Matrix,

within ninety (90) days of the effective date of this Ordinance. Such conforming technical amendments shall be strictly ministerial and shall not alter, reduce, weaken, or limit the scope of the prohibition enacted by this Section. Failure of the Board to timely adopt conforming technical amendments is a violation of this Ordinance enforceable under Sections 11 and 14.

SECTION 5: Amendment to the Imperial County Zoning Ordinance

A. PROHIBITED USE IN ALL ZONING DISTRICTS.

The Imperial County Zoning Ordinance (Title 9 of the Imperial County Codified Ordinance, Land Use Ordinance) is hereby amended to add 'Data Centers, as defined in the Imperial County Data Center Prohibition Act,' as an expressly prohibited land use in all zoning districts applicable to the unincorporated territory of Imperial County. This prohibition applies to all base zones and all overlay zones, including without limitation all agricultural zones, all residential zones, all commercial zones, all light industrial zones, all general industrial zones, and all specific plan implementation zones.

B. SUPERSESSION OF EXISTING USE TABLES.

To the extent any current entry in any zoning district use table designates data centers, data processing facilities, computer centers, server facilities, or any functionally equivalent use as permitted outright (P), permitted subject to a conditional use permit (CUP), or otherwise allowable, such designation is hereby superseded and shall be read as 'Prohibited' for any facility meeting the definition of 'Data Center' in Section 3(A), regardless of the size, ownership, or specific operational characteristics of the facility.

C. CONFORMING AMENDMENTS.

The Board of Supervisors is directed to adopt conforming amendments to the Zoning Ordinance, including updates to use tables, definitions sections, and any applicable district development standards, within ninety (90) days of the effective date of this Ordinance. Such amendments shall be ministerial and shall not reduce the scope of the prohibition enacted by this Section.

SECTION 6: Prohibition on Data Centers and Land Use Entitlements

A. GENERAL PROHIBITION.

Data Centers are prohibited in all land use designations and all zoning districts in the unincorporated territory of Imperial County. No person or entity shall construct, install, establish, operate, expand, or reconstruct beyond lawful nonconforming standards any Data Center in the unincorporated territory of Imperial County.

B. ENTITLEMENT PROHIBITION.

A County Officer or Employee who knows or reasonably should know that an application is a Data Center Application shall not recommend approval of, approve, sign, issue,

record, or otherwise take any official act upon that application or any resulting Land Use Entitlement. A County Officer or Employee knows or reasonably should know that an application is a Data Center Application when: (1) the applicant has submitted a Data Center Self-Certification Form pursuant to Section 3(D) disclosing that the project meets any threshold in Section 3(A); (2) the project description, plans, or supporting materials submitted with the application indicate on their face that the project meets any threshold in Section 3(A); or (3) the County Officer or Employee otherwise has actual knowledge that the project is or includes a Data Center. This prohibition applies to all Pending Applications as of the effective date of this Ordinance and to all new applications filed after the effective date of this Ordinance. Ignorance of the requirements of this Ordinance is not a defense if the officer or employee had access to information from which a reasonable person would have concluded that the application involved a Data Center.

C. RETROACTIVITY AND PENDING INITIATIVE NOTICE.

This Ordinance applies retroactively to all Pending Applications regardless of the date on which such applications were filed. No vested right to develop a Data Center shall be deemed to have arisen from the filing, pendency, or processing of any application that was not finally approved, with all applicable administrative appeal periods, CEQA challenge deadlines, and judicial review periods fully exhausted, before the effective date of this Ordinance. Any application for a Land Use Entitlement for a Data Center filed on or after the date on which the Notice of Intention to circulate this initiative petition is filed with the Imperial County Elections Official pursuant to Elections Code Section 9103 is filed with actual and constructive knowledge that a pending initiative measure seeks to prohibit Data Centers in unincorporated Imperial County. No person or entity filing such an application may claim any reliance interest, vested right, equitable estoppel, or investment-backed expectation arising from that filing, the County's receipt of that filing, or any action taken by the County on that filing prior to the effective date of this Ordinance.

D. DEVELOPMENT AGREEMENTS.

No development agreement, whether executed before or after the effective date of this Ordinance, shall be construed to authorize or permit a Data Center in contravention of this Ordinance. To the extent any development agreement executed before the effective date of this Ordinance purports to authorize a Data Center, that authorization is void as of the effective date of this Ordinance, subject to any applicable constitutional limitations.

SECTION 7: Limited Exceptions

The following uses are not prohibited by this Ordinance and are not subject to the prohibition in Section 6:

A. Accessory Data Processing Facilities

as defined in Section 3(B).

B. Existing lawfully operating facilities.

Any facility that: (i) was lawfully operating as a data center under a Land Use Entitlement that was finally approved, with all applicable appeal and review periods fully exhausted, before the effective date of this Ordinance; and (ii) continues to operate within the scope and intensity of that Entitlement. Any expansion of the facility beyond the footprint, power draw, or operational scope of the existing Entitlement is prohibited. This exception does not apply to any facility for which a Land Use Entitlement was issued in violation of this Ordinance.

C. Governmental facilities.

Data processing facilities operated exclusively by a federal, state, or local government agency for the agency's own internal governmental operations, where such facilities are not available for commercial colocation, commercial cloud hosting, or data processing services to private parties.

D. Narrow construction of exceptions.

No facility that meets the definition of 'Data Center' in Section 3(A) shall qualify for any exception under this Section solely on the grounds that it also performs governmental, telecommunications, or other functions, unless the data center use is genuinely incidental and physically and operationally subordinate to the excepted function. The burden of demonstrating eligibility for any exception rests on the party claiming the exception.

SECTION 8: Voter-Only Repeal and Limitation on Board Authority

A. This Ordinance, including the General Plan Land Use Element amendments in Section 4, the Zoning Ordinance amendments in Section 5, and all enforcement provisions in Sections 11 through 14, may not be repealed or amended except by a majority vote of the registered voters of Imperial County at a duly called election. The Board of Supervisors may not repeal, amend, weaken, limit, suspend, or circumvent this Ordinance by ordinance, resolution, administrative directive, administrative policy, development agreement, approval of a Specific Plan, grant of a variance, or any other means, without voter approval.

B. Notwithstanding Section 8(A), the Board of Supervisors may adopt strictly non-substantive ministerial technical amendments to this Ordinance solely for the following limited purposes: (i) correcting typographical or clerical errors that do not affect the substance of any provision; (ii) renumbering sections for codification consistency with the Imperial County Codified Ordinance; or (iii) making the minimum adjustment expressly directed by a final, non-appealable judgment of a court of competent jurisdiction, as specified in that judgment. No ministerial technical amendment may reduce the scope of the prohibition in Section 6; expand any exception in Section 7; modify any definition in Section 3 in a manner that narrows the definition of 'Data

Center' or broadens the definition of 'Accessory Data Processing Facility'; or modify the enforcement provisions of Sections 11 through 14 in any manner adverse to enforcement or to the rights of Electors under Section 14.

C. Elections Code Section 9125 independently provides that an ordinance adopted by voters by initiative petition may not be repealed or amended by the Board of Supervisors. Section 8(A) reinforces and supplements that statutory protection and extends it expressly to the General Plan and Zoning Ordinance amendments enacted by this Ordinance.

SECTION 9: Environmental Review

The People find and declare that adoption of this Ordinance is exempt from further review under the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations Sections 15000 et seq.) for each of the following independent and alternative reasons:

A. This Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. A prohibition on data centers prevents construction; it does not authorize any physical development or ground disturbance. (14 Cal. Code Regs. Section 15060(c)(2).)

B. There is no possibility that this Ordinance may have a significant effect on the environment. (14 Cal. Code Regs. Section 15061(b)(3).)

C. This Ordinance establishes temporary or permanent land use limitations and qualifies as a minor alteration in land use limitations categorically exempt from CEQA review. (14 Cal. Code Regs. Section 15305.)

D. This Ordinance is adopted by a regulatory agency to protect natural resources and the environment by preventing environmental impacts associated with large-scale data center uses. (14 Cal. Code Regs. Sections 15307, 15308.)

E. Local land use initiatives adopted by voters are not subject to CEQA review. (Tuolumne Jobs & Small Business Alliance v. Superior Court (2014) 59 Cal.4th 1029.)

MANDATORY NOTICE OF EXEMPTION. The County Counsel and the Clerk of the Board of Supervisors shall file a Notice of Exemption with the Imperial County Clerk and with the California Office of Planning and Research (State Clearinghouse) within five (5) calendar days of the effective date of this Ordinance, pursuant to Public Resources Code Section 21167(d) and 14 California Code of Regulations Section 15062. Timely filing commences a thirty-five (35) day statute of limitations on CEQA challenges to this Ordinance. Failure to timely file is a violation of this Ordinance subject to enforcement under Sections 11 and 14.

SECTION 10: General Provisions

A. BROAD CONSTRUCTION.

This Ordinance shall be broadly construed in every respect to achieve the purposes stated in Section 2. Ambiguities in the scope of any prohibition, definition, or exception shall be resolved in favor of prohibition rather than permission.

B. CONSISTENCY WITH LAW.

This Ordinance shall be interpreted to be consistent with all applicable federal and state laws. To the extent any provision of this Ordinance is held by a court to be preempted by state or federal law, that provision shall be deemed modified only to the minimum extent necessary to avoid preemption, and all remaining provisions shall continue in full force and effect.

C. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, including any amendment to the General Plan Land Use Element or Zoning Ordinance, is held invalid by a final judgment of a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions. The People declare that this Ordinance, and each portion thereof, would have been adopted irrespective of whether any other portion is found invalid. The People expressly find that this Ordinance fully accomplishes its core purpose of prohibiting Data Centers in unincorporated Imperial County through Sections 4 and 5 independently. The Board of Supervisors is directed to use its best efforts to cure any invalidated provision consistently with the express and implied intent of this Ordinance.

D. COMPETING MEASURES.

If a competing ballot measure addresses the same subject matter and both this Ordinance and the competing measure receive majority approval at the same election, the provisions of each shall be given full effect except to the extent of any direct conflict between specific provisions. As to directly conflicting provisions, the provisions of the measure receiving the greater number of affirmative votes shall prevail. (Yoshisato v. Superior Court (1992) 2 Cal.4th 978.)

E. CUMULATIVE PROVISIONS.

All provisions of this Ordinance are cumulative with any other applicable law, ordinance, regulation, or requirement. The provisions of this Ordinance do not limit any authority the County, any elector, or any other person may have under any other law to regulate, prohibit, or seek redress with respect to data centers or any related land use.

SECTION 11: Misdemeanor Penalties; Prohibition on Unlawful Expenditure of County Resources

A. MISDEMEANOR: GENERAL.

Any person who violates any prohibition of this Ordinance is guilty of a misdemeanor, punishable pursuant to Government Code Section 25132(a) and Penal Code Section 19 by: imprisonment in the Imperial County jail for a period not to exceed six (6) months; a fine not to exceed one thousand dollars ($1,000); or both such imprisonment and fine. Each day on which a violation occurs or continues constitutes a separate and distinct offense. Each Land Use Entitlement approved or issued in violation of this Ordinance constitutes a separate offense, independent of any day-count.

B. MISDEMEANOR: COUNTY OFFICERS AND EMPLOYEES.

Notwithstanding any other provision of law, any County Officer or Employee who commits any of the following acts is guilty of a misdemeanor under Government Code Section 25132(a), punishable as provided in Section 11(A):

(1) Knowing or having reasonable basis to know that an application is a Data Center Application, recommends approval of, approves, signs, issues, records, or otherwise takes any official act upon that application or any resulting Land Use Entitlement;

(2) Expends, authorizes the expenditure of, or commits any County Resources in connection with recommending, approving, or facilitating any Data Center Application or any resulting Land Use Entitlement;

(3) Directs, instructs, authorizes, or permits any other County Officer or Employee to take any action described in paragraphs (1) or (2);

(4) Votes as a member of the Board of Supervisors or any county body to accept, process, or approve any Land Use Entitlement for a Data Center; or to adopt any ordinance, resolution, or policy that conflicts with, circumvents, suspends, or purports to supersede this Ordinance other than as strictly permitted by Section 8(B); or

(5) Fails to file the Notice of Exemption required by Section 9 within five (5) calendar days of the effective date of this Ordinance.

C. UNLAWFUL EXPENDITURE.

Any expenditure of County Resources in violation of this Ordinance is an unlawful expenditure of public funds. Any County Officer or Employee who authorizes or makes an unlawful expenditure is personally liable to the County of Imperial for the full amount of such unlawful expenditure, recoverable: (i) by the County through any available legal means; (ii) by any taxpayer through an action under Code of Civil Procedure Section 526a; or (iii) by any Elector through an action under Section 14 of this Ordinance.

D. NO IMMUNITY FOR FOLLOWING ORDERS.

It is not a defense to any criminal prosecution or civil enforcement action under this Ordinance that a County Officer or Employee was directed, instructed, or authorized by any supervisor, department director, the County Administrative Officer, the Board of

Supervisors, County Counsel, or any other person or body to take the act that constitutes the violation. Each individual who personally commits a prohibited act bears individual criminal and civil liability.

E. PROSECUTION.

Violations of this Section may be prosecuted by the Imperial County District Attorney in the name of the People of the State of California pursuant to Government Code Section 25132(a).

F. ADMINISTRATIVE CIVIL PENALTIES.

In addition to criminal prosecution and civil liability, the County may pursue administrative civil penalties under Government Code Section 53069.4 against any person violating this Ordinance, in amounts not exceeding the limits specified by applicable law per violation per day.

G. CIVIL NUISANCE ACTION.

Any violation of this Ordinance constitutes a public nuisance. The County may seek injunctive relief, abatement, civil penalties, and any other remedy available at law or in equity to abate any such nuisance.

H. VOID ENTITLEMENTS.

Any Land Use Entitlement issued in violation of this Ordinance is void ab initio and confers no vested rights upon any applicant, developer, contractor, owner, or operator.

SECTION 12: Liability Upon Official Bond

A. AUTOMATIC ATTACHMENT TO BOND.

This Ordinance imposes duties on County Officers. Pursuant to Government Code Section 1503, the faithful performance condition of every County Officer's official bond is supplemented, automatically and by operation of law, upon the effective date of this Ordinance to include faithful compliance with all obligations imposed on that officer by this Ordinance, as additional duties imposed by law enacted subsequent to the execution of any existing bond.

B. NONFEASANCE AND MALPERFORMANCE.

Pursuant to Government Code Section 1505, any special penalty, forfeiture, or liability imposed by this Ordinance on any County Officer for nonperformance or malperformance of official duties, including without limitation the criminal penalties in Section 11(A) and (B) and the civil liability for unlawful expenditures in Section 11(C), attaches to the official bond of that officer and to the principal and sureties thereon. This attachment operates automatically by statute upon the effective date of this Ordinance.

C. SCOPE OF BOND LIABILITY.

'County Officer' subject to bond liability includes every officer of Imperial County required by law to give or maintain an official bond before entering on the duties of office, including without limitation: members of the Board of Supervisors, County Assessor, County Auditor-Controller, County Clerk of the Board, County Sheriff, District Attorney, County Treasurer-Tax Collector, County Recorder, County Superintendent of Schools, and any other elected or appointed officer of the County who holds an official bond.

D. CIVIL ACTION AGAINST BOND.

Any Elector may bring an action in the Superior Court of Imperial County against any County Officer and the principal and sureties on that officer's official bond or master bond to recover any damages, penalties, or forfeitures arising from that officer's violation of this Ordinance, as authorized by Government Code Section 1505 and Code of Civil Procedure Section 995.010 et seq.

E. EMPLOYEES WITHOUT BONDS.

County employees not required to give or maintain an official bond bear personal criminal liability under Section 11(A) and (B) and personal civil liability under Section 11(C) for violations of this Ordinance.

F. NOTICE TO SURETIES.

Within thirty (30) calendar days of the effective date of this Ordinance, the Clerk of the Board of Supervisors shall send written notice to the surety on each county officer's individual official bond and on each master bond on file with the County, stating that this Ordinance imposes additional faithful performance duties on bonded officers pursuant to Government Code Section 1503 and that liability for nonfeasance or malperformance in connection with this Ordinance attaches to the bond pursuant to Government Code Section 1505. Failure of the Clerk to send such notice does not affect the legal effect of subdivisions (A) and (B), which operate by operation of law regardless of notice.

SECTION 13: Supplemental Conflict of Interest, Recusal, and Paid Representative Disclosure Policy

A. PURPOSE, FOUNDATION, AND SUPPLEMENTAL NATURE.

This Section establishes a supplemental conflict of interest, recusal, and paid representative disclosure policy for County Officers, Employees, and Paid Representatives in connection with Data Centers and this Ordinance. The People enact this Section pursuant to the finding in Section 2(K) that the sole lawful path to authorizing any Data Center after the effective date of this Ordinance is a voter referendum to repeal or amend this Ordinance. Because the only remaining avenue available to any person seeking to authorize a Data Center is an election of the People,

any effort to influence County Officers or the Board of Supervisors regarding Data Centers or this Ordinance is, in practical and legal effect, an attempt to influence the conditions of a future election. This Section is enacted to protect the integrity of both the county administrative process and the democratic process. This Section supplements the obligations of County Officers and Employees under the Political Reform Act (Government Code Sections 81000 et seq.), the common law doctrine of incompatibility of interest, and any other applicable ethics statute or regulation, and in no respect replaces, limits, or satisfies those obligations. Where this Section is more restrictive than the Political Reform Act or other law, the more restrictive obligation controls. Enforcement by the Fair Political Practices Commission of the Political Reform Act is unaffected by this Section. All enforcement of this Section by the District Attorney is grounded in Government Code Section 25132 and this Ordinance, not in the Political Reform Act.

B. MANDATORY DISCLOSURE BY COUNTY OFFICERS AND EMPLOYEES.

Any County Officer or Employee who is called upon to take, recommend, or participate in any official action relating to: the acceptance, processing, review, approval, or denial of any Data Center Application or Land Use Entitlement for a Data Center; the implementation, interpretation, amendment, or enforcement of this Ordinance; any Board proceeding relating to placement of a repeal or amendment measure on the ballot; or any other matter relating to a Data Center shall first disclose in writing to the Clerk of the Board, and affirmatively state on the public record at any proceeding, any of the following relationships with any Data Center Developer or Paid Representative that exists at the time of the action or that existed within the five (5) years preceding the action:

(1) Any employment, consulting, contractor, agency, or other compensated or uncompensated service relationship;

(2) Receipt of any gift, contribution, payment, in-kind benefit, loan, or other thing of value with a fair market value exceeding fifty dollars ($50), whether received directly or indirectly through a third party;

(3) Any campaign contribution, independent expenditure, or other form of political support provided to the officer, or to any officeholder or candidate actively supported by the officer, from any Data Center Developer, Paid Representative, or any officer, director, owner, investor, agent, lobbyist, or affiliate of a Data Center Developer;

(4) Any current or prior ownership interest, equity stake, profit-sharing arrangement, stock holding, or other direct or indirect financial interest in any entity that is a Data Center Developer or an investor, parent company, subsidiary company, affiliate, or joint venture partner of a Data Center Developer; or

(5) Any personal, family, household, or significant business relationship that a reasonable member of the public with full knowledge of the relationship would find creates a substantial appearance of bias or partiality.

C. MANDATORY RECUSAL.

Any County Officer or Employee who has any relationship required to be disclosed under Section 13(B) shall be recused from all participation in any official action described in Section 13(B), including deliberation, discussion, recommendation, and any vote, whether taken at a noticed public meeting or in any other official context.

D. REVOLVING DOOR RECUSAL.

Any County Officer or Employee who, within the five (5) years immediately preceding the action, served as a Paid Representative for any Data Center Developer in connection with any matter before any California public agency shall be recused from all participation in any official action described in Section 13(B). This revolving door recusal obligation applies regardless of whether any other relationship requiring disclosure under Section 13(B) exists. The revolving door recusal is a condition of holding public office or employment with respect to the subject matter of this Ordinance, not a restriction on speech or association.

E. RECUSAL PROCEDURE.

A recused County Officer or Employee shall: (i) promptly notify the Clerk of the Board and the presiding officer of any body before which the matter is pending of the recusal and its basis; (ii) physically leave the room during any deliberation, discussion, or vote on any matter from which the officer or employee is recused, and not return until the matter is concluded; and (iii) file a written recusal statement with the Clerk of the Board within five (5) business days of the date the recusal occurs. The Clerk of the Board shall maintain a public register of all recusal statements filed pursuant to this Section, open to inspection by any person during normal business hours.

F. MANDATORY ON-THE-RECORD DISCLOSURE BY PAID REPRESENTATIVES.

Any Paid Representative appearing before, communicating with, or contacting any County Officer or Employee in connection with any matter within the scope of Section 13(B) shall, at the commencement of each appearance, communication, or contact, disclose on the public record, in writing to the Clerk of the Board if the communication is not at a public proceeding, or under oath at any transcribed or video recorded proceeding:

(1) Their full legal name and the name of their firm or organization, if any;

(2) The full legal name of each Data Center Developer on whose behalf they are appearing or communicating;

(3) The general nature of the compensation arrangement, including whether compensation is on a retainer, hourly, contingency, or other basis, without requiring disclosure of dollar amounts; and

(4) The specific matter or proceeding with respect to which they are appearing or communicating.

This disclosure obligation applies at each separate appearance, communication, or contact. Submission of a written disclosure form to the Clerk of the Board at or before the time of appearance satisfies the on-the-record requirement for written communications. The disclosure obligation under this subsection does not restrict, limit, or condition the Paid Representative's right to appear, speak, or advocate.

G. PUBLIC REGISTER OF PAID REPRESENTATIVE APPEARANCES.

The Clerk of the Board shall maintain a publicly accessible register of all disclosures filed pursuant to Section 13(F). The register shall include: the name of the Paid Representative; the name of the Data Center Developer represented; the matter before the county body; the date of each appearance or communication; and the nature of the proceeding. The register shall be updated within ten (10) business days of each disclosure and shall be available for public inspection during normal business hours and on the County's public-facing website. The register shall be retained for not less than ten (10) years.

H. FALSE DISCLOSURE: MISDEMEANOR.

Any person who knowingly makes a materially false or misleading disclosure under Section 13(B) or Section 13(F), or who knowingly fails to make a required disclosure under either subsection while taking an action or making an appearance to which the disclosure obligation applies, is guilty of a misdemeanor under Government Code Section 25132(a), punishable as provided in Section 11(A). Each separate false statement and each separate failure to disclose constitutes a distinct offense.

I. VOIDABILITY OF ACTIONS TAKEN IN VIOLATION.

Any Land Use Entitlement approved, or any other official action taken, by a County Officer or Employee who was subject to but failed to comply with the mandatory recusal required by Section 13(C) or the revolving door recusal required by Section 13(D) is voidable. Any Elector may seek to void such action pursuant to Section 14 of this Ordinance.

J. NO RESTRICTION ON APPEARANCE OR SPEECH.

Nothing in this Section restricts, prohibits, or penalizes any person's right to appear before, petition, or communicate with any County Officer, Employee, or body. The obligations imposed by this Section are disclosure, registration, and recusal obligations only. They do not limit speech, advocacy, or the right to petition the government.

SECTION 14: Private Right of Action; Elector Standing; Available Relief; Attorney's Fees

A. CREATION OF PRIVATE RIGHT OF ACTION.

This Ordinance expressly creates a private right of action enforceable by any Elector of Imperial County. Any Elector shall have standing, without the need to demonstrate personal particularized injury beyond status as a registered voter of Imperial County, to bring a civil action in the Superior Court of Imperial County to seek the relief specified in this Section against the County of Imperial, the Board of Supervisors, any County Officer or Employee in his or her individual and official capacity, or any other person or entity violating any provision of this Ordinance.

B. GROUNDS FOR ACTION.

An Elector may bring an action under this Section upon any of the following grounds, which are set forth by way of illustration and not limitation:

(1) Failure by the Board to adopt the General Plan Land Use Element conforming technical amendments required by Section 4(C) within ninety (90) days of the effective date of this Ordinance;

(2) Failure by the Board to adopt the Zoning Ordinance conforming amendments required by Section 5(C) within ninety (90) days of the effective date of this Ordinance;

(3) Acceptance, processing, recommendation of approval, approval, or issuance of any Land Use Entitlement for a Data Center in violation of Section 6;

(4) Failure by the County Counsel or the Clerk of the Board to file the Notice of Exemption required by Section 9 within five (5) calendar days of the effective date of this Ordinance;

(5) Adoption by the Board of any purported ministerial technical amendment to this Ordinance that exceeds the narrow scope permitted by Section 8(B);

(6) Any violation of the conflict of interest disclosure, recusal, revolving door, or paid representative disclosure requirements of Section 13;

(7) Any failure by the Clerk of the Board to maintain or update the public register required by Section 13(G);

(8) Any unlawful expenditure of County Resources in violation of Section 11(C);

(9) Any other material violation of any provision of this Ordinance; or

(10) Any threat of imminent violation that, unless enjoined, would cause irreparable harm to the purposes of this Ordinance.

C. RELIEF AVAILABLE.

In any action brought by an Elector under this Section, the Superior Court may grant: (1) a temporary restraining order and preliminary or permanent injunction enjoining any violation or threatened violation; (2) declaratory relief; (3) a writ of mandate under Code of Civil Procedure Section 1085 compelling performance of any ministerial duty imposed by this Ordinance; (4) an order voiding any Land Use Entitlement or official action issued or taken in violation of this Ordinance; (5) an order requiring recovery of any

unlawful expenditure of County Resources; (6) an order requiring the filing of any Notice of Exemption not timely filed; (7) an order compelling maintenance or correction of the paid representative register required by Section 13(G); and (8) such other equitable, legal, or declaratory relief as the court deems appropriate to effectuate the purposes and intent of this Ordinance.

D. ATTORNEY'S FEES: PRIVATE ATTORNEY GENERAL.

In any action brought under this Section in which the Elector prevails in whole or in substantial part, the court shall award reasonable attorney's fees and costs to the prevailing Elector pursuant to Code of Civil Procedure Section 1021.5. The People expressly find that: (i) this Ordinance protects an important right affecting the public interest; (ii) enforcement confers significant benefits on the general public; and (iii) the financial burden of private enforcement is such that an award of attorney's fees is necessary to ensure effective enforcement.

E. VENUE.

All actions under this Section shall be filed and maintained in the Superior Court of the State of California, County of Imperial.

F. DEMAND AND OPPORTUNITY TO CURE.

For actions seeking a writ of mandate under Section 14(C)(3) only, the Elector must first deliver written demand to the responsible County Officer and a copy thereof with Clerk of the Board specifying the duty to be performed and allow a reasonable time, not less than ten (10) business days from receipt of the demand, for compliance before filing the writ petition, unless the court finds that immediate relief is warranted to prevent irreparable harm or that demand would be futile. For all other forms of relief under this Section, no prior demand or exhaustion of administrative remedies is required.

G. CUMULATIVE REMEDIES.

All remedies provided in this Section are cumulative and are in addition to all other remedies available to any person at law or in equity, including without limitation the right of any taxpayer under Code of Civil Procedure Section 526a to enjoin any illegal or unauthorized expenditure of public funds; the right of any person to seek a writ of mandate under Code of Civil Procedure Section 1085; and any remedy available under the Political Reform Act (Government Code Sections 81000 et seq.).

SECTION 15: Effective Date and Publication

A. EFFECTIVE DATE.

If approved by a majority of the voters voting on this measure at the election, this Ordinance shall become a valid and binding ordinance of the County of Imperial and shall become effective ten (10) days after the date on which the Board of Supervisors

declares the results of the election, pursuant to Elections Code Section 9122. All prohibitions set forth in Section 6 and all enforcement provisions set forth in Sections 11 through 14 shall take effect on the same date.

B. PUBLICATION.

The Clerk of the Board of Supervisors is directed to publish this Ordinance or a summary thereof in a newspaper of general circulation within Imperial County and to codify this Ordinance in the Imperial County Codified Ordinance within thirty (30) days of the effective date of this Ordinance.